

### REASONS FOR ALLOWANCE

1. The following is an examiner's statement of reasons for allowance:
2. Claim 1 has been amended to require that the mass average particle diameter is evaluated using a capillary cartridge for particle fractionation and a carrier liquid at neutral pH. As discussed in the Office Action dated 23 November 2009 (p. 8, lines 3-6), a mass average particle diameter measured in this way is not interchangeable with the average particle size taught by Sugaya. This is further evidenced by the declaration under 37 CFR 1.132 dated 11 September 2009. The declaration indicates that when measured in this way, the mass average particle diameter of Sugaya's copolymer falls outside the claimed range.
3. Additionally, the Applicant correctly notes that Sugaya does not recognize or teach the criticality of the T<sub>g</sub> of the outer layer polymer, nor that this T<sub>g</sub> should be restricted within the range of 20-80°C as required by Claim 1. While Sugaya does not expressly teach the T<sub>g</sub> of the outer layer, a range was previously calculated to be 19.9-105°C using the Fox equation and the disclosed makeup of the copolymer.
4. In the remarks dated 23 March 2010 (see particularly p. 5, paragraph 4 – p. 6, paragraph 2), the Applicant indicated that Comparative Examples (CEs) 3 and 7 in the instant specification demonstrate the criticality of the claimed range. CE 3 possesses an outer layer polymer with a T<sub>g</sub> of 10°C, below the claimed range. CE 7 is formed from the polymer produced in CE 1, which has a T<sub>g</sub> of 99°C, above the claimed range. As indicated in Tables 2 and 3, CE 3 results in agglomeration at the time of coagulation

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and recovery, while CE 7 results in a significantly lower Izod impact strength with respect to Examples 7-12.

5. Thus, the Applicant has sufficiently demonstrated the criticality of the claimed Tg range. This is sufficient to rebut a *prima facie* case of obviousness based on the overlapping range taught by Sugaya. As a result, the previous ground of rejection under 35 USC 103(a) over Sugaya is withdrawn, and the claims are allowable.

6. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT JONES JR. whose telephone number is (571)270-7733. The examiner can normally be reached on Monday - Thursday, 9 AM - 5 PM.

8. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on 571-272-1114. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

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published applications may be obtained from either Private PAIR or Public PAIR.

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RSJ

/David Wu/

Supervisory Patent Examiner, Art Unit 1796